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Mayor

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CONSERVATION COMMISSION

MINUTES

June 26, 2008

Beginning at 7:30 p.m.

Room 209, City Hall

MEMBERS PRESENT: Doug Dickson, Acting Chair, N. Richardson, S. Lunin, D. Green

MEMBERS ABSENT: I. Wallach, R. Matthews, J. Hepburn

MEMBERS OF THE PUBLIC: See attached sign-in sheet

CR & Easement for path for 230 Lake Ave., and CR for subdivided parcel at 230 Lake Ave., both CRs to be held by the Newton Conservators, for acceptance by the Conservation Commission.

Meeting: The draft CRs were in the packets. D. Dickson had some questions about timing. Anne explained that the document needs to be ready at the time of the sale. D. Dickson asked whether the path outline and property boundary are in their final form. Anne said there may be minor changes. D. Dickson proposed to table the documents until later in the meeting.

212 Kenrick – Newton Commonwealth Golf Course –Request for Extension for vegetation management, repair to irrigation pond and sluiceway (applicant is withdrawing request for repair to sluiceway and submitted new plan- actually the old plan for repair to the irrigation pond.

Meeting: Hearing was continued to allow staff to review the Vegetation Management Plan submitted at the last meeting. Dave Stowe, Greens Manager, was present to represent the golf course. He does not plan any future use of herbicides. Staff thinks the Management Plan is a good start. The repair of the sluiceway seems more involved than first thought, and since DPW will be asked to do the work, they will submit the NOI. D. Stowe said he would submit a written description of the construction sequence and the mitigation measures to be used.

Vote: Motion by D. Green to approve 3-yr extension. Second by S. Lunin. Vote: All approved. Motion passed. Cover letter will note that sluiceway work and chemical herbicides not included in the extension.

32 Williams St. – NOI – continued from 2007, with new plan for 2-family dwelling and driveway in riverfront to the Charles River

Report: New plan submitted showing 2-family house and 1 page description. Whole lot (9820 sf) is in riverfront, almost all in first 100 ft. 1150 sf (12% covered by existing house. Proposed house =2055 sf and asphalt driveway 1845 sf combined =3900 sf or 40% coverage w/impervious surface. There is no breakout of new development versus amount that is redevelopment. About 1/3 of parcel is shown as flood zone on GIS, but

Conservation Commission

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flood zone is not identified on plan & flagging does not follow guidelines for MAHW (20.58(2)(A)2, “first observable break in slope” for Charles.

I spoke to Mr. Robart and reminded him that the re-development portion needs to be addressed under 310 CMR 10.58(5) and the new development (10.58(4)) needs an alternatives analysis, and that the CC had advised him to consult a Wetland Scientist when he first brought you the project 6+ months ago. The material submitted states “There are no other alternatives for the parcel other than the proposed use,” but there is no justification offered for this statement – in fact the first plan the applicant submitted was for a smaller single-family house. There is no discussion of how the work will protect the interests under the Act, except that stormwater runoff from the roof and the driveway is “provided for.” Planning also needs to review the project, but the owner seems not to agree.

Meeting: Mr. Ruti Robart, new owner, presented. His research shows the lot was subdivided in 1890, and he talked about the history and the size of the lot. The owner is concerned about the alternative analysis. Anne suggested meeting with Planning and Zoning to explore variances for height to reduce footprint, or possibly re-configure. Owner said he had been advised to consult with wetland specialist to address new development versus re-development issues. He said he received engineering comments too late to discuss. D. Green suggested consulting an attorney who is familiar with the issues. Hearing continued to July 24, 2008.

77-79 Florence Place – Hampton Place Condo. Trust-NOI – Relocation of chiller pipes in buffer zone to bank of Hahn Brook & pond.

Report: Last hearing continued to provide time to review new material that was presented at last meeting (Memo from Brian McLane, Nitch Engr., dated May 22, 2008 & plan titled Chiller Pipe Replacement and Erosion and Sediment Control Plan, dated May 22, 2008). Basically, Nitch is directing the contractor to hire a civil engineer to design a de-watering plan for the site, which Nitch Engr. will then review and submit to me. Recommended special conditions...1) No work to begin until de-watering plan approved by staff, 2) if haybales used, they shall be staked, entrenched 4-6 inches, and back-filled, with back-fill tamped down. Note, construction notes say stockpiled material shall be 100 ft from wetland, but plan shows it much closer.

Meeting: Gary Pease, Nitch Engineering, and Laura Locke, property manager, appeared to represent the proposed project, and submitted abutter notification cards. Mr. Pease is proposing that the Commission issue an OOC, with a condition that staff would approve a de-watering plan prior to start of work. The Commission noted issues that need to be addressed: approval of a de-watering plan, construction notes that say no material to be stockpiled within 100 ft of wetland on plan that shows stockpiles much closer, and plan showing haybales that are only toed in (instead of being entrenched 4-6 inches and back-filled). The Commission would like these issues settled prior to issuance of the OOC. Applicants agreed to continue to the July 24th meeting. The Commission noted that if the issues are settled prior to the meeting, the applicant need not re-appear. Hearing continued to July 24, 2008

15 St. James Terrace-RDA for deck in outer 100 ft of riverfront of the Charles River

Report: All proposed work is within existing lawn or paved area, and small area of lawn to be covered by deck(s) will not make appreciable difference to site. No engineering issues. CC can issue a negative determination for work.

Meeting: Steve DesRoche, surveyor and engineer, appeared with engineer Cassandra Koutalidis, to represent the project. The project is in the outer 200 ft of riverfront and out of the 100 ft buffer zone to bordering vegetated wetland to the Charles. Nonantum road lies between the project and the wetland areas, and there are no storm drains near the proposed work.

Motion by D. Green to issue a negative determination for the work. Second by N. Richardson. Vote: All in favor. Motion passed.

133 Harwich Rd. – remove existing deck, construct addition and deck 35 ft from Bordering Vegetated Wetland (all work within 100 ft buffer zone)

Report: Proposed addition almost as large as existing house, with similarly sized deck to be added in 100 ft buffer to BVW. GIS shows finger of flood zone extending from BVW onto rear of property, but NOI plan shows finger of BVW extending onto rear of property, although no flags found in field, and no plant data sheets or soil logs. I think the GIS is closer to actual conditions – a small elevational drop at rear of property and edge of lawn area clearly marks the start of BVW approximately at the rear property line. A low spot in the lawn area at the rear of the property may be flood zone, but we do not have a contour line supplied by the engineer and I cannot be sure – engineering says existing and proposed elevations, as well as grading do not agree. Engineering also has issues with test pit to determine where water table is for infiltration. So, not sure how close work is to wetland, or whether proposed location of infiltration is acceptable. Proposed mitigation planting area has been added to plan (revised June 16), although proposed plants are all non-woody perennials.

Meeting: Amir and Paula Farhi, owners of the property, attended and described the project. Owner forgot to sign the NOI, and DEP has not issued a file number. Abutter notification receipts were submitted. Review by Environmental Planner and Engineering has not resolved type of wetland and limits of wetland. There are no wetland flags on the property. Engineering cannot approve location of infiltration galleys until get wetland line and water table information. Owners agreed to continue to provide information requested: 1) Flagged wetland boundary, with plant data sheets and soil logs for determination of bordering vegetated wetland boundary, 2) additional elevations and contour lines to delineate flood zone boundary, 3) water table information for area where ground water re-charge proposed, 4) reconcile differences in existing and proposed elevation and grading to city engineer's satisfaction, 5) if BVW line is determined to be correct, applicant may propose to move deck further away, and/or offer more detailed planting plan with woody native plants for buffer strip along wetland edge. Hearing continued to July 24, 2008.

785 Centre Street – ANRAD by Sacred Heart, Inc. for delineation of Bordering Vegetated Wetland

Report: Site walk scheduled to examine flagging of wetland line but has not yet occurred.

Meeting: Tom Concannon and Frederick Levy were present for Newton Country Day School, along with their consultant Scott Smyers of Oxbow Associates. Abutter notification receipts submitted. Anne and Scott reviewed flags in field, and revised plan dated 6-23-08 was submitted. City GIS shows only flood zone in this area, which would be delineated by elevation. Owners agreed to continue to obtain more information on nature and extent of resource area. Hearing continued to July 24, 2008.

117 Wallace-NOI to demo house and re-build, with small portion of work in the 200 ft riverfront to the Charles River

Report: Lot is located just across the street from the Charles R. Country Club pump house. Top of bank delineation taken from filing for pump house (2002). 7,057 sf of the lot is riverfront. Currently 763 sf of house and driveway are in riverfront, and proposed house will have 668 sf in riverfront, 323 sf of which is redevelopment and the remainder is new development. One tree in front of house (not shown on plan) will be removed) and new house will infiltrate roof and driveway run-off. Engineering suggests the erosion & sediment control should be moved to west for more room to stockpile excavated material on site. Lot is flat, and material could be stockpiled at back of lot out of riverfront area.

Meeting: John Rockwood of EcoTec submitted abutter notification receipts and presented for owner. Flags on plan from prior delineation - not for this property. Proposed new and re-development will result in slightly less impervious surface in the riverfront. Mr. Rockwood assures that tree left off of plan (located in front of house) is not going to be removed. Engineering suggests owner move erosion and sediment control 'fence' farther from house to provide sufficient access for equipment. Stockpiling can be conducted outside of riverfront area.

Motion by N. Richardson to approve project (subject to getting a statement from the engineer that the drainage has not changed). **Second by S. Lunin. Vote: All in favor. Motion passed.**

Lot 2 Kessler Way-Amended OOC requested – landscaping changes

Report: None of lot is in riverfront or buffer zone. Substantial grading (including retaining wall at back of property) with no signed and stamped statement from the engineer that the drainage patterns will remain the same as those in the approved plans prepared by H.W. Moore Associates. Landscape plan contains a nice mixture of native trees, shrubs.

Meeting: Michael Peirce, Attorney, Joe Porter, engineer, and Mark Kopchell, landscape designer, were present and described the proposed changes. Staff noted that original OOC requires, in the case of any changes to grading, a signed statement from the engineer to the effect that the drainage amount and pattern will not be altered by the proposed changes. Abutter expressed concerns about drainage on lot (letter(s)) in file.

Motion by S. Lunin to approve changes subject to getting a signed statement from the engineer that the drainage has not changed. Second by D. Green. Vote: All in favor. Motion passed.

Lot 8 Harwich (Kessler Woods)-Amended OOC requested alterations to dwelling and driveway in the 200 ft riverfront area

Report: Owner proposes to reduce size of dwelling and patio, increase size of garage, and increase size of driveway and relocate it. Also proposing less grading. Net change is decrease of 289 sf in impervious surface area. Seems to be net positive change, and only a very small portion of the lot and a corner of the house are in riverfront. Not really CC jurisdiction, but I spoke with abutter who has concerns that the excavation for the 15 ft retaining wall along the property boundary for the associated infiltration system will destroy the roots of a line of trees along the property line to save trees? Could retaining wall and infiltration basin be moved further away from property line? We also have not received a signed and stamped statement from the engineer that the drainage patterns will remain the same as those in the approved plans prepared by H.W. Moore Associates.

Meeting: Joe Porter, VTP Associates, and Bart O'Brien, home designs appeared for the owner and described proposed changes. There is now no 3 ft grade change proposed and house size is slightly reduced. Abutter submitted letter. Commission members asked the representative if the retaining wall could be pulled back. J. Porter said the retaining wall is essentially sitting on the surface and no excavation would be needed for it. The Commission asked whether excavation for the drainage structures adjacent would harm roots of trees on abutters land. Mr. Porter said he would see what he could do.

Motion by N. Richardson to approve project (subject to getting a statement from the engineer that the drainage has not changed). Second by S. Lunin. Vote: All in favor. Motion passed.

Lot 6 Kessler Way-Amended OOC requested for changes to dwelling, garage, addition of pool, apron, pool house, retaining wall with chain link fence, and decks for total increase in impervious area of ~1,000 sf not counting deck) in the 200 ft riverfront area. Special Condition 32 of original OOC, states

32. At least 30 days prior to the commencement of construction, Cornerstone Corporation and/or its agents is directed to submit to the Conservation Commission a 'Final Landscaping Plan' showing landscape treatments for each lot, including grading, plantings, barriers to human passage into wildlife areas (fences, boulders, walls, railings, plantings, etc.) between the edge of the lawn and the limit of work, such plan to take into consideration the passage of wildlife. This information shall be incorporated into the "Final Construction Plan" set described in Condition #30.

Landscape plan has been received. One species, threadleaf cypress, is not on approved plant list for inner riparian zone. My research indicates special condition 32 reflects a concern for passage of wildlife when fences or other barriers were erected, and that the pool area, surrounded as it is with chain link fence atop a retaining wall constitutes a barrier to passage of wildlife. We also have not received a signed and stamped statement from the engineer that the drainage patterns will remain the same as those in the approved plans prepared by H.W. Moore Associates.

Meeting: Michael Peirce, attorney and Joe Porter, VTP Associates, and Mark Kopchell, landscape designer were present and described the project. An abutter, Lydia Chesnick, came with an engineer who said there are

no calculations for the galley alongside the pool, and he believes the house will overlap the detention pond. A comment letter was also received from the Charles River Watershed Association expressing concern about the amount of increase in impervious surface associated with the pool, and requested the Commission require an alternatives analysis. Discussion among Commission members led to the conclusion that wildlife would find ways around the fencing and it would not be a barrier. The detention basin has not been maintained as the Order of Conditions specifies, and M. Peirce said it works well and maintenance will start when the houses are all built and the homeowners' association becomes active. M. Peirce stated the drainage calculations (for the galleys) are part of the filing and available when the Board of Aldermen meets. No NPDES permit has ever been obtained, which is a technical violation. The Newton Engineering review included comments that a signed statement from a licensed engineer is required to state that the drainage will not change and the erosion and sediment control needs to be detailed. The Commission stipulated additional conditions for this lot: that no activity occur outside the erosion and sediment control fence, that no draining of the swimming pool should occur within half a day of a measurable rainfall, that no chlorine be added within a week prior to draining of the pool and the test should be on file with the Commission, that the engineer for the project submit a letter stating that the drainage will not change, and that erosion and sediment control details be forthcoming – plus the standard conditions from the original OOC.

Motion by S. Lunin to approve the project with the (above) conditions. Second by D. Green. Vote: S. Lunin, D. Green, D. Dickson voted “aye.” N. Richardson voted “nay.” Motion passed.

Violations (*needs action)

1203&1211 Washington – DPW finished their repairs to wall; contractor for Mr. Donato to begin.

***15 Harwich Rd** – consultant is asking permission to plant twice the amount of plants for restoration/mitigation and get sign-off on EO right away

Meeting: Staff reported that GLM is representing the property at 15 Harwich and explained the request. The Commission is not willing to lift the Enforcement Order until the trees have survived for the recommended period after planting.

160 Pine St –At last meeting CC agreed condo trustees can work under EO

***394 Boylston St.** –BC condo BC representative Joe Herlihy and Mr. Liu or his representative present

Meeting: Joe Herlihy, attorney-trustee of BC, Mr. Liu, owner of the adjoining condo, and Jedd Barclay of Grasshopper Landscaping were present to describe the present conditions. Digital photos were submitted showing plantings that were installed. The main issue is the vernal pool. The present grading of the site causes storm water to run off the grass to the sides and drain along the property boundaries to the bottom, where it will converge at the vernal pool. Any excess chemicals used for lawn treatment will tend to be carried to the vernal pool. D. Green said the Commission has jurisdiction over what is done on the site because of the violation of the Wetlands Protection Act. He said BC did not have to adhere to the “no three-foot grade change” provision, but its representatives must come up with a plan to protect the vernal pool from negative effects resulting from the alterations on the property.

93 Andrew St – nothing new

3 Fuller – nothing new

Certificates of Compliance

285 Newtonville – OOC issued 3-31-06 for new planting area, removal of oil tank, new handicap ramp, & interior renovations. At last meeting CC voted to continue. Planting area needs attention.

Meeting: Continued with no new information.

Announcements & General Business:

June, 2008 Meeting Minutes for approval

Meeting: Motion by S. Lunin to approve minutes of May 22 meeting. Second by D. Green. Vote: All in favor. Motion passed.

Non-criminal ticketing - report

Outstanding issues – discussion

Offices – In old minutes (5-22-03) I found

“All offices were filled with the same people – Chair, Ira Wallach; Vice Chair, Rachel Freed; Clerk, Susan Lunin; Trustee of Kennard Park Trust, Ira Wallach; Trustee of Newton Commonwealth Golf Course Foundation, Alan Green; Member of Community Preservation Committee, Eric Reenstierna; Member of Open Space Plan Advisory Committee, Norm Richardson, Liaison with Environmental Sciences Program, Susan Lunin.”

The Commission has previously elected the following “offices:”

Chair, V-Chair, Clerk (since Rachel is gone the Commission needs to elect a new V-chair)

Norm was elected Trustee of Newton Commonwealth Golf Course Foundation

Also needed:

Trustee of Kennard Park Trust

Member of Community Preservation Committee

Member of Open Space Plan Advisory Committee

Liaison with Environmental Sciences Program

The Commission elected the following members to the following offices:

Susan Lunin – Vice-Chairman

Dan Green CPC

Susan Lunin-Liaison w/Environmental Science Program

The Commission will ask Judy Hepburn if she will serve on the Kennard Park Trust. The Open Space Plan Advisory Committee is inactive at the moment. Someone from the Commission will speak to Mike Kruse about it.

D. Dickson said the Commission needs more associates, and associates that can vote. He will speak to the Law Department to see how to expedite getting the issue to the BOA.

Meeting adjourned approximately 12:10am.

Respectfully submitted,

Anne Phelps, Sr. Environmental Planner